IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 12213 of 2005

Between:

B. Prabhkar Reddy, S/o. B. Krishna Reddy,
F.No. 11, Block-A, Prajay Alakapuri, Green Hills Colony, RangaReddy District.

..... PETITIONER

AND

1 The Regional Transport Officer, Ranga Reddy District, Uppal

Zone, Uppal, Hyderabad.
2 The Motor Vehicle Inspector, Represented by P. Purushottam,
O/o. South Zone, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order of oral rejection to release the petitioner's vehicle and asking to pay penal tax and compounding fees without conducting any enquiry in respect of Heavy Goods Vehicle (Lorry) along with it's documents bearing Reg.No. AP/04/U/2005 seized by the 2nd respondent under V.C.R. No. 2033952, dated 04-6-2005 is illegal and without jurisdiction and consequently direct the respondents to release the vehicle forth with and issue such other order or orders, as this Hon'ble Court may deem fit and proper

Counsel for the Petitioner: SMT.C.P.V.SUHASINI DEVI

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following :

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Order: (Per Sri BRSR.J)

The grievance of the petitioner in the instant writ petition is that in spite of filing an application under Section 207(2) of the Motor Vehicles Act, 1988 read with Rule 448-B of the Motor Vehicle Rules, 1989, the authority having seized the vehicle under check report No.2033952 dated 4.6.2005 did not dispose of the same.

This Court in ***Saleem Tours and Travels v. Joint Transport Commissioner & Secretary, RTA*** held as follows;

1. A vehicle plying in breach of conditions of permit as regards the purpose of usage of the vehicle an be seized under Section 207 of the Motor Vehicles Act, but not under Section 8 of A.P.M.V. Taxation Act. But, the mere fact that the latter provision is also quoted does not vitiate seizure.

2. The vehicle so seized cannot be detained until the completion of enquiry under the Taxation Act and the payment of tax if any pursuant to the demand raised.

3. The vehicle seized under Section 207 on the ground of contravention of conditions of permit should not be detained for unduly long time and on application filed by the vehicle operator, the vehicle ought to be released with expedition subject to stipulation of conditions to ensure non-alienation of the vehicle and the production of vehicle in connection with the enquiry unless there are exceptional circumstances which make the release of vehicle frustrate the enquiry. Such conditions may include furnishing of cash security of a reasonable amount which could be adjusted later on towards compounding fee or tax

if any demanded. Incidentally, it may be mentioned that this Court while directing release of vehicles has been directing deposit ranging between Rs.2,000/- to Rs.5,000/- .

4. The demand of estimated tax to be determined after due enquiry under the provisions of the Taxation Act or furnishing security therefore shall not be made a condition precedent for the release of the vehicle seized under Section 207 of the MV Act.

5. In exceptional cases where there is reasonable apprehension that the vehicle will not be available for taking further action or the ultimate order passed in the light of the enquiry cannot be implemented on account of any special facts and circumstances, the competent Transport authority can withhold the release or stipulate any appropriate conditions for release other than the payment of tax not yet determined. In such a case, it is expected of them that the reasons are recorded in writing.

6. If the competent authority refuses to release the vehicle within a reasonable time, say within three days, after the application is made in this behalf, or imposes onerous conditions, resort to remedy under Article 226 is open to the aggrieved person. The Court may direct release of the vehicle on such conditions as may be deemed appropriate viz., deposit of certain amount in order to secure the production of vehicle in connection with the enquiry or prosecution prohibition the transfer of the vehicle etc., If any amount is deposited pursuant to the order of the Court, the same is liable to be adjusted ultimately against the compounding fee or the tax payable.

The writ petition is disposed of in terms of the above judgment and the respondents are accordingly directed to dispose of the representation/petition preferred by the petitioner within a period of three days from the date of receipt of a copy of this order. No costs.

(B.SUDERSHAN REDDY,J)

dated 10.06..2005

(RAMESH RANGANATHAN,J)

msv.

Note: Issue CC today

(B/o)

msv

To

1 The Regional Transport Officer, Ranga Reddy District, Uppal

Zone, Uppal, Hyderabad.

2 The Motor Vehicle Inspector, Represented by P. Purushottam,
O/o. South Zone, Hyderabad.

3 2 CCs to the GP for Transport, High Court of A.P Hyderabad (OUT)

4 2 CD copies

5 1 CC to SMT.SUHASINI DEVI